

HOUSE BILL 805

By Lamberth

AN ACT to amend Tennessee Code Annotated, Title 65,
Chapter 4, relative to text message solicitations.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 65-4-401, is amended by adding the following as a new subdivision:

() "Text message solicitation":

(A) Means a text communication over a telephone originating from a location within this state that:

(i) Promotes or encourages, directly or indirectly, the purchase or rental of, or investment in, property, goods, or services;

(ii) Refers a residential subscriber to another person for the purpose of promoting or encouraging the purchase of, rental of, or investment in, property, goods, or services; or

(iii) Requests a charitable contribution, except as provided for in subdivision () (B)(ii); and

(B) Does not include a text communication to a residential subscriber:

(i) With the subscriber's prior express permission;

(ii) If the communication is made by a bona fide member, volunteer, or direct employee of a not-for-profit organization exempt from paying taxes under § 501(c) of the Internal Revenue Code (26 U.S.C. § 501(c)) as long as the voice communication is made to request a

charitable contribution to be used solely for the not-for-profit organization's exempt purpose;

(iii) Who is an existing customer, including a residential subscriber with whom the person or entity making a text message solicitation has had a prior relationship within the prior twelve (12) months; or

(iv) If the communication is made on behalf of a business and the following conditions are met:

(a) A direct employee of the business makes the text communication;

(b) The communication is not made as part of a telecommunications marketing plan;

(c) The business has a reasonable belief that the specific person who is receiving the text communication is considering purchasing the service or product sold or leased by the business and the text communication is specifically directed to the person;

(d) The business does not sell or engage in telemarketing services; and

(e) The business does not make more than a total of three (3) such text communications in any one (1) calendar week;

SECTION 2. Tennessee Code Annotated, Section 65-4-402, is amended by deleting the section and substituting:

A person or entity who makes a telephone or text message solicitation to a residential subscriber in this state shall, at the beginning of the call or text, state clearly the identity of the person initiating the call and the entity or organization the person

represents. Without the permission of the residential subscriber, a person or entity who makes a telephone or text message solicitation shall not call or text the subscriber at any time other than between the hours of eight o'clock a.m. (8:00 a.m.) to nine o'clock p.m. (9:00 p.m.), prevailing time.

SECTION 3. Tennessee Code Annotated, Section 65-4-403, is amended by deleting the section and substituting:

A person or entity who makes a telephone or text message solicitation to the telephone of a residential subscriber in this state shall not knowingly utilize any method to block or otherwise circumvent the subscriber's use of a caller identification service.

SECTION 4. Tennessee Code Annotated, Section 65-4-404, is amended by deleting the section and substituting:

A person or entity shall not knowingly make or cause to be made a telephone or text message solicitation to a residential subscriber in this state who has given notice to the commission, in accordance with rules promulgated pursuant to this part, of such subscriber's objection to receiving telephone or text message solicitations.

SECTION 5. Tennessee Code Annotated, Section 65-4-405, is amended by deleting "telephone solicitations" wherever it appears and substituting "telephone or text message solicitations".

SECTION 6. Tennessee Code Annotated, Section 65-4-405(b)(5), is amended by deleting "calling the telephone numbers" and substituting "calling or texting the telephone numbers".

SECTION 7. Tennessee Code Annotated, Section 65-4-405, is amended by deleting "telephone solicitation" in subdivisions (d)(3) and subsection (f) and substituting "telephone or text message solicitation".

SECTION 8. Tennessee Code Annotated, Section 65-4-408, is amended by deleting "telephone solicitations" and substituting "telephone or text message solicitations".

SECTION 9. This act takes effect July 1, 2023, the public welfare requiring it, and applies to solicitations occurring on or after that date.